

RULE 2003

Consultation Procedure for Transportation Conformity

(A) General

(1) Purpose.

- (a) This rule provides procedures for consultation, conflict resolution and public participation for conformity determinations of transportation plans, programs and projects, and developing applicable State Implementation Plan (SIP) revisions relating to transportation.

(2) Applicability.

- (a) These consultation procedures shall be undertaken by various agencies including, but not limited to, the following:
 - (i) Federal: United States Environmental Protection Agency, Region IX (USEPA); Federal Transit Administration, Region IX (FTA); and Federal Highway Administration, Region IX (FHWA); and Federal Highway Administration, California Division (FHWA-CA).
 - (ii) State: California Air Resources Board (CARB); Department of Transportation Headquarters, and Local Districts 8 and 9 (Caltrans).
 - (iii) Regional: Southern California Association of Governments (SCAG); San Bernardino Associated Governments (SANBAG); and the Mojave Desert Air Quality Management District (MDAQMD).
 - (iv) Local Agencies: Cities, counties, cities and counties, and special districts.
- (b) These consultation procedures shall be used to obtain appropriate input regarding the development and revision of the following:
 - (i) Regional Transportation Plans (RTP) developed pursuant to 23 CFR 450;
 - (ii) Regional Transportation Improvement Programs (RTIP) developed pursuant to 23 CFR 450; and,
 - (iii) All conformity determinations required pursuant to District Rule 2001.

- (c) These consultation procedures shall be used to obtain appropriate input regarding the development and revision of transportation issues in the following:
 - (i) Any applicable Federal Implementation Plan (FIP); and
 - (ii) the applicable State Implementation Plan (SIP).

(B) Definitions

- (1) For the purposes of this Rule, the definitions found in District Rule 2001(B) shall apply.

(C) Interagency Consultation Procedures: General Factors

- (1) Agency Roles and Responsibilities.

- (a) CARB - The California Air Resources Board is responsible for the following:
 - (i) Review and comment as appropriate on the RTP, RTIP, and conformity determinations, analysis and findings.
 - (ii) In consultation with SCAG, Caltrans and other interested parties, conduct research to update motor vehicle emission factors.
 - (iii) Develop, solicit input on, adopt and update motor vehicle emissions factors for use in SIP development and revisions.
 - (iv) Provide the most recent USEPA approved motor vehicle emissions factors to SCAG and Caltrans for use in motor vehicle emissions analysis.
 - (v) Provide technical support to SCAG and MDAQMD for the preparation of motor vehicle emissions analysis.
 - (vi) Review all draft and final SIP revisions for compliance with applicable requirements.
 - (vii) Submit final SIP revisions to USEPA.
- (b) Caltrans - The state highway agency, or its designee, is responsible for the following:
 - (i) Prepare project-level conformity analysis for state transportation projects pursuant to the requirements of 40 CFR 51, subpart T.
 - (ii) Propose projects for inclusion into the RTP and RTIP.
 - (iii) Distribute draft and final project environmental documents.
 - (iv) Review and comment as appropriate on the RTP, RTIP, and conformity determinations, analyses and findings.
 - (v) Provide technical support to SCAG for the preparation of the motor vehicle emissions analysis.

- (vi) Review and comment as appropriate on SIP revisions.
 - (vii) Review and consult with CARB on any proposed revision to motor vehicle emissions factors.
 - (viii) Implement transportation control measures (TCMs) for which Caltrans has responsibility.
 - (ix) Report timely implementation of TCMs to SCAG as part of the RTIP project reporting.
 - (x) Update the Direct Travel Impact Model (DTIM) for regional motor vehicle emissions analysis, and for its consistency with the most recent motor vehicle emission factors (EMFAC) model approved by USEPA. Provide an updated copy of this model to SCAG in a timely manner.
 - (xi) Assist SCAG in gathering documentation regarding timely implementation of TCMs.
- (c) FHWA and FTA - The Federal Highway Administration and Federal Transit Administration, or their designee(s), are responsible for the following:
- (i) Prepare conformity analysis and make conformity findings for FHWA and FTA projects.
 - (ii) Make conformity findings for state transportation projects.
 - (iii) Provide notification of conformity findings to the other agencies.
 - (iv) Provide guidance on the conformity and metropolitan transportation planning processes.
 - (v) Review and comment as appropriate on SIP revisions.
 - (vi) Provide guidance on the conformity implications of SIP revisions as appropriate.
 - (vii) Review and comment, as appropriate, on the RTIP and associated conformity findings.
 - (viii) Provide final approval of the RTP and RTIP conformity findings following appropriate consultation with USEPA.
 - (ix) Provide notification of findings of conformity determinations to SCAG, Caltrans headquarters and MDAQMD.
- (d) Local Agencies - Cities, counties, cities and counties, and special districts are responsible for the following:
- (i) Propose projects for inclusion in the RTP and RTIP.
 - (ii) Review and comment as appropriate on the RTP, RTIP and conformity demonstrations, analysis and findings.
 - (iii) Implement on schedule TCMs for which local agencies have implementation responsibility.
 - (iv) Review and comment, as appropriate, on SIP revisions.

- (v) Forward all regionally significant projects, as defined in District Rule 2001 (B)(1)(hh), to the County Transportation Commission for regional motor vehicle emissions analysis.
- (e) MDAQMD - The Mojave Desert Air Quality Management District is responsible for the following:
 - (i) Develop attainment demonstration, maintenance and control strategies for inclusion in the SIP.
 - (ii) In consultation with SCAG and Caltrans, prepare motor vehicle emissions budgets and incorporate such budgets into the SIP.
 - (iii) Review and comment, as appropriate, on the RTP, RTIP and conformity analysis and findings received from other applicable agencies.
 - (iv) Upon notification by USEPA, notify SCAG of the status of pending USEPA sanctions, sanction clocks and any changes to such status or sanction clocks.
- (f) SANBAG - The San Bernardino Associated Governments, the County Transportation Commission (CTC) for San Bernardino County, is responsible for the following:
 - (i) Propose projects for inclusion in the RTP and RTIP following appropriate consultation with other local agencies and local governments.
 - (ii) Forward all regionally significant projects (including FHWA/FTA projects) within their jurisdiction to SCAG pursuant to Sections 130303 and 130304(a) of the California Public Utilities Code as information regarding these projects become available to them.
 - (iii) Inform SCAG of any significant changes in the design concept and scope of projects within their jurisdiction and subject to conformity analysis as such changes occur.
 - (iv) Assist SCAG in gathering documentation regarding the timely implementation of TCMs, and report timely implementation of TCMs as part of the RTIP project reporting.
 - (v) Implement the TCMs in the applicable SIP for which they are responsible and report to SCAG on such implementation efforts.
 - (vi) Report to SCAG on the status of implementation of the RTIP projects located in their jurisdictions.
 - (vii) Discuss with other affected agencies which projects and minor arterials shall be considered regionally significant according to the definition set forth by District Rule 2001 and USEPA in 40 CFR '51.392 for purposes of regional motor vehicle emissions analysis.
 - (viii) Comment on projects for inclusion in the RTP and RTIP.

- (ix) Review and comment, as appropriate, on the RTP, RTIP and conformity analysis and findings.
 - (x) Review and comment as appropriate on SIP revisions.
- (g) SCAG - The Metropolitan Planning Organization (MPO) is responsible for the following:
- (i) Prepare the RTP and RTIP (including accompanying financial plans).
 - (ii) Prepare conformity analysis and make conformity findings for the RTP and RTIP pursuant to the requirements of District Rule 2001 and 40 CFR 51, subpart T.
 - (iii) Perform transportation modeling, prepare regional motor vehicle emissions analysis and document timely implementation of TCMs.
 - (iv) Review and comment, as appropriate, on SIP revisions.
 - (v) Consult with MDAQMD and CARB regarding motor vehicle emissions budgets for conformity analysis.
 - (vi) Consult with Caltrans, CARB, and USEPA regarding use of EMFAC in motor vehicle emissions analysis.
 - (vii) Distribute related letters received from FHWA and FTA regarding joint conformity findings to all affected agencies.
 - (viii) Notify affected agencies of the RTP and RTIP amendments.
 - (ix) Provide regional transportation modeling.
 - (x) Provide socioeconomic data and forecasts (including travel demand) used in the development of the RTP, RTIP, and associated conformity analysis.
 - (xi) Make vehicle miles traveled (VMT) estimates and forecasts used in conformity analysis.
 - (xii) Resolve conflicts between County Transportation Commissions regarding their portions of the RTP and RTIP.
- (h) USEPA - The United States Environmental Protection Agency is responsible for the following:
- (i) Review and comment as appropriate on the RTP, RTIP and conformity analysis and findings.
 - (ii) In cooperation with FHWA and FTA, provide guidance on the federal transportation conformity regulation 40 CFR 51, subpart T to other agencies.
 - (iii) Review and approve updates of motor vehicle emissions factors for use in conformity analysis.
 - (iv) Review all SIP revisions for completeness and approvability.
 - (v) Provide guidance on applicable Clean Air Act requirements to the other agencies.

- (2) Initiation of Consultation Procedure.
 - (a) With respect to the RTP and RTIP conformity determinations, SCAG shall initiate the interagency consultation process.
 - (b) With respect to the preparation of SIP revisions, MDAQMD shall initiate the interagency consultation process.
- (3) Transmission of Documents.
 - (a) SCAG shall provide notice of availability and copies of all documents related to the RTP and RTIP 30 days prior to any public hearing on any of these documents.
 - (i) Notices of availability and copies of all drafts of the RTP and RTIP shall be prepared and distributed by SCAG to all Working Group and Task Force members as described in Sections (D) and (E); persons and organizations on the committee mailing list; and to anyone else requesting them at least 30 days in advance of any meeting or public hearing at which the documents are discussed. Notice of availability and copies of all other draft documents shall be prepared and distributed by SCAG in the same manner at least 14 days in advance of any such meeting.
 - (ii) Notice of availability and copies of the final RTP and RTIP shall be prepared and distributed by SCAG to all Working Group and Task Force members as described in Sections (D) and (E); persons and organizations on the committee mailing list; and to anyone else requesting them at least 30 days in advance of any meeting or public hearing at which the final documents are discussed. Notice of availability and copies of all other draft documents shall be prepared and distributed by SCAG in the same manner at least 14 days in advance of any such meeting or public hearing.
 - (b) The MDAQMD shall distribute all applicable SIP revisions to the Working Group and any other applicable agencies. Any supporting materials shall be made available for written comments for at least forty-five (45) days unless another time period is specified.
 - (i) MDAQMD shall provide a copy of the final SIP revision, as adopted, as well as any supporting information to any other appropriate agency within sixty (60) days of the adoption of the final document. MDAQMD shall respond, in writing, to any

germane and significant comments made by the Working Group during the Review and Comment period. Such responses to comments shall be included in the SIP revision as adopted by the MDAQMD Governing Board.

(ii) Each agency shall provide any comments to MDAQMD for the preparation of the final SIP revision in writing.

(c) If a conformity determination is prepared as part of the documentation required under the National Environmental Policy Act (NEPA) and/or the California Environmental Quality Act (CEQA), the review period for submitting written comments to the draft document and supporting material shall be the review period specified for the documentation required under NEPA and/or CEQA.

(4) Responses to Comments.

(a) All comments shall be responded to in either the Working Group as described in Section (D) or Task Force as described in Section (E) at which the comment was made, or a written response shall be prepared within 30 days of receipt of any written comment.

(D) Transportation Working Group (Working Group)

(1) General Purpose:

(a) The Working Group functions as a forum for interagency consultation, which offers advice to SCAG's Regional Council Policy and Standing Committees. Where appropriate, the Working Group also offers recommendation to the Governing Boards of other agencies involved in the development and implementation of the SIP (including on-road mobile sources), RTP, RTIP, and associated conformity determinations.

(b) The general purpose of the Working Group is to review and recommend procedures for conformity determination of plans and programs in the SCAG region before conformity determinations are made by SCAG.

(c) The Working Group shall review and formulate recommendations of all issues relating to development of the RTP and RTIP, including:

- (i) regionally significant projects;
- (ii) motor vehicle emission factors;
- (iii) motor vehicle emission budgets;
- (iv) timely implementation of TCMs;

- (v) methodology used in performing regional motor vehicle emissions analysis;
 - (vi) planning assumptions and VMT used for conformity analysis; and
 - (vii) RTP and RTIP conformity findings.
 - (d) The Working Group shall provide technical input and consultation throughout the air quality/transportation planning processes.
- (2) Composition of the Working Group.
- (a) The Working Group may include staff representatives from each of the following entities:
 - (i) SCAG;
 - (ii) Caltrans;
 - (iii) CARB;
 - (iv) SCAQMD;
 - (v) VCAPCD;
 - (vi) MDAQMD;
 - (vii) ICAPCD;
 - (viii) FHWA;
 - (ix) FTA;
 - (x) Los Angeles County Metropolitan Transportation Authority (LAMTA);
 - (xi) Orange County Transportation Authority/Orange County EMA;
 - (xii) Riverside County Transportation Commission (RCTC);
 - (xiii) SANBAG;
 - (xiv) Ventura County Transportation Commission (VCTC);
 - (xv) Imperial Valley Associated Governments (IVAG); and
 - (xvi) Transit Operators.
- (3) Working Group Meetings.
- (a) The Working Group shall meet once a month or as otherwise agreed. Additional meetings shall be convened by SCAG at the request of any member of the Working Group. Meeting agenda packets, consisting of agenda, minutes, and the administrative record, plus copies of any relevant documents, shall be prepared by SCAG and distributed to meeting participants, persons and organizations on the Working Group mailing list, and to all persons requesting a copy at least 30 days in advance of the meeting date.

(4) Decision Protocol.

- (a) Any recommendations regarding general issues of regional significance must be made by a consensus of the Working Group (unless an alternative method has been agreed upon by the Working Group).
- (b) Notwithstanding the above, any recommendations reached regarding conformity with the MDAQMD motor vehicle emissions budget, MDAQMD SIP revisions, or issues solely impacting areas within the jurisdiction of the MDAQMD must be made by a consensus of the following members of the Working Group (unless an alternative method has been agreed upon by those members of the Working Group in writing):
 - (i) MDAQMD;
 - (ii) SCAG;
 - (iii) SANBAG;
 - (iv) CARB;
 - (v) Caltrans;
 - (vi) FHWA; and
 - (vii) FTA.

(E) Modeling Task Force (Task Force)

(1) General Purpose:

- (a) The Task Force shall review technical elements\documents concerning the development and application of the regional transportation model, relative to travel forecasting and to analysis of the motor vehicle impacts on air quality (including motor vehicle emissions analysis, motor vehicle emissions factors and associated planning assumptions, socioeconomic data, VMT, and temperature).
- (b) The Task Force shall review research, data collection efforts, and model development and design, including funding and scheduling issues. The Task Force shall evaluate and choose the model or models and associated methodologies and assumptions to be used in hot-spot analysis and regional motor vehicle emissions analysis.
- (c) The Task Force shall discuss SIP emissions inventory for transportation sources and the methodology used in the developing a transportation SIP planning emissions inventory.

(2) Composition of the Task Force.

(a) The Task Force may include staff representatives from each of the following entities:

- (i) SCAG;
- (ii) Caltrans;
- (iii) CARB;
- (iv) SCAQMD;
- (v) VCAPCD;
- (vi) MDAQMD;
- (vii) ICAPCD;
- (viii) FHWA;
- (ix) FTA;
- (x) Los Angeles County Metropolitan Transportation Authority (LAMTA);
- (xi) Orange County Transportation Authority/Orange County EMA;
- (xii) Riverside County Transportation Commission (RCTC);
- (xiii) SANBAG;
- (xiv) Ventura County Transportation Commission (VCTC);
- (xv) Imperial Valley Associated Governments (IVAG); and
- (xvi) Transit Operators.

(3) Task Force Meetings.

(a) The Task Force shall meet every third Wednesday of every other month unless otherwise agreed. Additional meetings shall be convened by SCAG at the request of any member of the Task Force. Meeting agenda packets, consisting of agenda, minutes, and the administrative record, plus copies of any relevant documents, shall be prepared by SCAG and distributed to meeting participants, persons and organizations on the Task Force mailing list, and to all persons requesting a copy at least 30 days in advance of the meeting date.

(4) Decision Protocol.

- (a) Any recommendations regarding general issues of regional significance must be made by a consensus of the Task Force (unless an alternative method has been agreed upon by the Task Force).
- (b) Notwithstanding the above, any recommendations reached regarding conformity with the MDAQMD motor vehicle emissions budget, MDAQMD SIP revisions, or issues solely impacting areas within the

jurisdiction of the MDAQMD must be made by a consensus of the following members of the Task Force (unless an alternative method has been agreed upon by those members of the Task Force in writing):

- (i) MDAQMD;
- (ii) SCAG;
- (iii) SANBAG;
- (iv) CARB;
- (v) Caltrans;
- (vi) FHWA; and
- (vii) FTA.

(F) Interagency Consultation Procedures: Specific Processes.

- (1) Interagency Consultation procedures shall be undertaken for the following items:
 - (a) Evaluating and choosing each model (or models) and associated methods and assumptions to be used in hot-spot analysis and regional motor vehicle emissions analysis, including VMT forecasting;
 - (b) Determining which minor arterials and other transportation projects should be regarded as "regionally significant" for the purposes of:
 - (i) Regional motor vehicle emissions analysis (in addition to those facilities functionally classified as principal arterial or higher, fixed guideway systems or extensions that offer an alternative to regional highway travel); and,
 - (ii) Considering which projects have a significant change in design concept and scope from the RTP or RTIP;
 - (c) Review the issue of whether projects otherwise exempt from meeting the requirements of 40 CFR '51 and District Rule 2001 should be treated as non-exempt in cases where potential adverse emissions impacts may exist.
 - (d) Making a determination whether:
 - (i) Past obstacles to implementation of those TCMs which are behind the schedule established in the SIP and shall determine whether such obstacles have been overcome.
 - (ii) State and local agencies with influence over approvals or funding for TCMs are giving maximum priority to approval or funding for the TCMs.

- (iii) Delays in TCM implementation necessitate revisions to the applicable SIP to remove TCMs or substitute TCMs or other emission reduction measures.
- (e) Identifying, as required by District Rule 2001(D), projects located at sites in PM₁₀ nonattainment areas which have vehicle and roadway emission and dispersion characteristics which are essentially identical to those at sites which have violations verified by monitoring, and therefore require quantitative PM₁₀ hot-spot analysis;
- (f) Notification of the RTP or RTIP revisions or amendments which merely add or delete exempt projects listed in District Rule 2001(A);
- (g) Determining whether the project sponsor or MPO has demonstrated that the requirements of District Rule 2001 are satisfied without a particular mitigation or control measure;
- (h) Evaluating events which will trigger new conformity determinations in addition to those triggering events established in District Rule 2001;
- (i) Motor vehicle emissions analysis for transportation activities which cross the borders of MPOs, nonattainment areas, or air basins;
- (j) Where the metropolitan planning area does not include the entire nonattainment or maintenance area, for cooperative planning and analysis for purposes of determining conformity of all projects outside the metropolitan area and within the nonattainment or maintenance area;
- (k) To assure that plans for construction of regionally significant projects which are not FHWA/FTA projects (including projects for which alternative locations, design concept and scope, or the no-build option are still being considered), including all those by recipients of funds designated under title 23 U.S.C. or the Federal Transit Act, are disclosed to SCAG on a regular basis, and to assure that any changes to those plans are immediately disclosed;
- (l) For assuming the location and design concept and scope of projects which are disclosed to SCAG whose sponsors have not yet decided these features, in sufficient detail to perform the regional motor vehicle emissions analysis according to the requirements of District Rule 2001(D);
- (m) For the design, schedule, and funding of research and data collection efforts, including regional transportation model development by SCAG or MDAQMD (e.g., household/ travel transportation surveys).

- (n) Development of a list of the TCMs which are in the applicable SIP.
- (2) Interagency consultation shall be undertaken by the Working Group described in Section (D).
 - (a) For items listed in Section (F)(1)(c), interagency consultation shall also include the Task Force as described in Section (E).

(G) Resolving Conflicts.

- (1) Conflicts involving conformity issues and transportation projects shall be discussed at the meetings of the Working Group.
- (2) Conflicts between SCAG and CARB or MDAQMD regarding a conformity determination made by SCAG shall be resolved as described below:
 - (a) Staff of these agencies will meet in an attempt to resolve differences in a manner acceptable to all parties;
 - (b) If staff are unsuccessful, the executive directors or heads of the involved agencies shall meet in an attempt to resolve differences in a manner acceptable to all parties.
 - (c) If such informal meeting fails to resolve differences, the executive director or heads of the involved agencies shall proceed as follows:
 - (i) The head of the agency that disputes ("Disputing Agency") the conformity determination shall contact the Executive Director of SCAG ("Executive Director") and inform the Executive Director of the nature of the dispute. A mediation between the head of the Disputing Agency, the Executive Director, or the authorized representatives of one or both shall be scheduled to begin within the next 14 days.
 - (ii) The mediation shall be conducted by a neutral, professional mediator.
 - (iii) At the start of the mediation, the mediator, the Executive Director (or the Executive Director's designated representative), and the head of the Disputing Agency (or the designated representative thereof) shall establish: the ground rules for conducting the mediation; the subjects which may be discussed during the mediation (including the purpose of the mediation); the subjects

which may be discussed during the mediation; the number of representatives from each agency who may be present during the mediation; and the number of days allotted from the mediation efforts.

- (iv) If the dispute is successfully resolved during the time limit set forth in the ground rules, the Executive Director and the Disputing Agency head shall memorialize their consensus in a written agreement. The mediator shall retain a copy of this agreement.
- (v) If the Executive Director and the Disputing Agency head are unable to reach a consensus during the time limit set forth in the ground rules, the Executive Director shall send a letter to the Disputing Agency stating that a consensus could not be reached and restating SCAG's conformity determination. The Disputing Agency shall have 14 days, beginning on the date that such letter is received, to appeal SCAG's conformity determination to the Governor. If CARB appeals to the Governor, the final conformity determination must have the concurrence of the Governor. CARB must provide notice of any appeal under this subsection to the FHWA or FTA.

- (d) The Governor may delegate the role of hearing any such appeal under this subsection and of deciding whether to concur in the conformity determination to another official or agency within the State, but not to the head or staff of: CARB; MDAQMD; Caltrans; a State transportation commission or board; any agency that has responsibility for only one of these functions; or an MPO.

(H) Public Consultation Procedures.

- (1) Agencies making conformity determinations on the RTP, RTIP and projects shall establish and continually implement a proactive public involvement process which provides opportunity for public review and comment prior to taking formal action on a conformity determination for the RTP and RTIP consistent with the requirements of 23 USC '134 et. seq. and 23 CFR 450, including "450.316(b) and 450.322(c), as in effect on the date of adoption of this rule. Any such agency shall:
 - (a) Specifically address in writing all public comments of known plans for a regionally significant project which is not receiving FHWA or FTA funding or approval that have not been properly reflected in the motor vehicle emissions analysis supporting a proposed conformity finding for the RTP or RTIP; and,

- (b) Provide opportunity for public involvement in conformity determinations for projects to the extent otherwise required by law.
- (2) The opportunity for public involvement provided under this subsection shall include access to information, motor vehicle emissions data, analysis, models and modeling assumptions used to perform a conformity determination, and the obligation of any such agency to consider and respond to significant comments.
- (3) No RTP, RTIP, or project may be found to conform unless the determination of conformity has been subject to a public involvement process in accordance with this subsection, without regard to whether the Federal Department of Transportation has certified any process under 23 CFR 450.

[SIP: Submitted as amended 2/22/95 on _____]

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